

# PENNSYLVANIA HAZARDOUS WASTE FACILITY SITING PROVISIONS

## Topics

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## Relevant Statutes and Regulations:

- G The Solid Waste Management Act (1980), as amended through Act 1992-104, Purdon's Pennsylvania Statutes Annotated, Title 35, Health and Safety, published by West Publishing Co., 1993.
  - ! Section 6018.507, "Siting of Hazardous Waste Treatment and Disposal Facilities".
  - ! Section 6018.104, "Powers and Duties of the Department".
  - ! Section 6018.105, "Powers and Duties of the Environmental Quality Board".
  - ! Section 6018.106, "Powers and Duties of the County Health Departments; Limitation".
  
- G Pennsylvania Code, Title 25, Environmental Resources, amended through January 16, 1993.
  - ! Chapter 269, "Siting".
  
- G Laws of Pennsylvania, Act 1988-108, Official Advance Copy:
  - ! Chapter 3, Section 309, "Hazardous Waste Facility Siting Team".
  - ! Chapter 3, Section 311, "Siting Assistance".
  - ! Chapter 3, Section 312, "Hazardous Waste Facility Siting Commission".
  - ! Chapter 3, Section 313, "Powers and Duties of Commission".

<http://www.dep.state.pa.us/dep/deputate/airwaste/wm/HW/Regs.htm> gives a contact for the hazardous waste regulations

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### Other Relevant State Documents:

- G Chapter 269 Site Suitability, Phase II Application Requirements and Guidance.
- G Siting Criteria/Environmental Assessment Process Review Checklist for Hazardous Waste Management Facilities, Module 9.
- G Fact Sheet #4, "Commercial Hazardous Waste Facilities: Pennsylvania's Siting and Permit Review Process", Commonwealth of Pennsylvania Department of Environmental Resources.
- G Fact Sheet #6, "Commercial Hazardous Waste Facilities: Phase I Siting Criteria", Commonwealth of Pennsylvania Department of Environmental Resources.
- G Fact Sheet #7, "Commercial Hazardous Waste Facilities: Phase II Siting Criteria", Commonwealth of Pennsylvania Department of Environmental Resources.
- G Guidance Manual for Permitting of Commercial Hazardous Waste Treatment or Disposal Facilities (Volume I), DER Publication, No. 412, Revised January 16, 1991.
- G Hazardous Waste Facility Siting: A citizen's guide. Pennsylvania Environmental Council brochure.

### State Agency Web address

- G <http://www.dep.state.pa.us/>

### Affected Facilities:

Pennsylvania has two sets of siting criteria, Phase I and Phase II, which apply to the following types of facilities:

- G Phase I exclusionary criteria (§§269.21-269.29) prohibit the siting of a hazardous waste treatment or disposal facility in an excluded area. The Department of Environmental Protection may deny a permit application without further review if the Department determines the proposed facility is located in an excluded area. Phase I criteria apply to **hazardous waste treatment or disposal facilities, except for** the following:
  - ! a facility sited and substantially constructed in good faith prior to the effective date of Chapter 269 (i.e., September 21, 1985).
  - ! modifications to a facility within the existing facility site. (269.12)
- G Phase II criteria (§§269.41-269.50) identify further environmental, social and economic factors that may affect the suitability of a location for a proposed facility. Phase II criteria apply to the following types of hazardous waste treatment or disposal facilities and modifications to such facilities (see Siting Criteria/Environmental Assessment Process, p. 10):
  - ! a proposed treatment or disposal facility,

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- ! a facility sited and substantially constructed in good faith prior September 21, 1985, and
- ! modifications to a facility within the existing facility site.

### **Definitions of Facility Types:**

#### **G** Definitions under Pennsylvania's hazardous waste regulations (260.2):

- ! "Commercial hazardous waste treatment facility" - a hazardous waste treatment facility permitted under the act which is not a captive facility. ("Captive facilities" is defined as facilities which are located upon lands owned by a generator of hazardous waste and which are operated to provide for the treatment or disposal solely of the generator's hazardous waste.)
- ! "Existing hazardous waste management facility" - a storage facility, a treatment facility or a permitted disposal facility which was in operation on November 19, 1980, or for which construction was begun on or before November 19, 1980.
- ! "Hazardous waste management facility" - a facility where storage, treatment or disposal of hazardous waste occurs.
- ! "New hazardous waste management facility" - a facility for which construction began after November 19, 1980.

#### **G** Definitions under Pennsylvania's Act 1988-108 (Section 103):

- ! "Commercial hazardous waste disposal facility" - a hazardous waste disposal facility permitted under the act of July 7, 1980 (P.L. 380, No. 97) known as the Solid Waste Management Act, which is not a captive facility. ("Captive facility" means a facility as defined and permitted under the act of July 7, 1980 (P.L. 380, No. 97), known as the Solid Waste Management Act.)
- ! "Commercial hazardous waste treatment facility" - a hazardous waste treatment facility permitted under the act of July 7, 1980 (P.L. 380, No. 97) known as the Solid Waste Management Act, which is not a captive facility. ("Captive facility" means a facility as defined and permitted under the act of July 7, 1980 (P.L. 380, No. 97), known as the Solid Waste Management Act.).

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<b>ADMINISTRATION</b>			
<b>STATE ADMINISTERING AGENCY</b>			
<b>The Department of Environmental Protection (the Department)</b>			
The Pennsylvania Department of Environmental Protection (the Department)	PPA PA PDP	<i>[6018.104]</i>  <i>[6018.104(1)]</i>  <i>[6018.104(6)]</i>  <i>[6018.104(7)]</i>  <i>[6018.104(14)]</i> <i>[6018.507(a)]</i>  <i>[6018.104(15)]</i>	<p>The Department of Environmental Protection (effective 7/1/95; formerly the Department of Environmental Resources), in consultation with the Department of Health regarding matters of public health significance has, among its many duties, the power and duty to:</p> <ul style="list-style-type: none"> <li>! administer the solid waste management program;</li> <li>! regulate the storage, collection, transportation, processing, treatment and disposal of solid waste;</li> <li>! issue permits;</li> <li>! develop, prepare, modify and submit to the Environmental Quality Board its proposed Pennsylvania Hazardous Waste Facilities Plan; and</li> <li>! develop, prepare and publish in the Pennsylvania Bulletin social and economic criteria and standards for siting hazardous waste treatment and disposal facilities.</li> </ul>

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The Department: Duties relative to the Pennsylvania Hazardous Waste Facilities Plan	PPA PA PDP	<i>[6018.507(a)]</i>	<p>The Pennsylvania Hazardous Waste Facilities Plan prepared by the Department <b>shall include:</b></p> <ul style="list-style-type: none"> <li>! criteria and standards for siting hazardous waste treatment and disposal facilities;</li> <li>! an inventory and evaluation of the sources of hazardous waste concentration within the Commonwealth, including the types and quantities of hazardous waste;</li> <li>! an inventory and evaluation of current hazardous waste practices within the Commonwealth including existing hazardous waste treatment and disposal facilities;</li> <li>! a determination of future hazardous waste facility needs, based on the location, capacities and capabilities of existing facilities, the existing and projected generation of hazardous waste within the Commonwealth and, where the Department finds such information to be available, the projected generation outside the Commonwealth of hazardous waste expected to be transported into the Commonwealth;</li> <li>! an analysis of methods, incentives or technologies for source reduction, detoxification, reuse and recovery of hazardous waste and a strategy for implementing them; and</li> <li>! identification of such hazardous waste treatment and disposal facilities and their locations (in addition to existing facilities) as are necessary to provide for the proper management of hazardous waste generated within the Commonwealth.</li> </ul>
		<i>[6018.507(g)]</i>	The Department shall review and amend the plan as necessary, but in no event less than every five years following adoption by the Environmental Quality Board.
The Department: Duties relative to public education	PPA, PA	<i>[Act 1988-108, Section 309(f)]</i>	<b>The Department shall develop</b> a comprehensive, innovative and effective public education program to inform the public with regard to the nature and extent of hazardous waste generation and the need for environmentally sound management, treatment and disposal of hazardous waste.

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The Secretary of the Department: Duties relative to public and local government involvement - selecting an advisory committee	PPA PA PDP	<i>[6018.507(b)]</i>	<p><b>! Within 60 days after the effective date of the act, the secretary of the Department of Environmental Protection (the Secretary) shall appoint</b> the Pennsylvania Hazardous Waste Facilities Planning Advisory Committee.</p> <p><b>! The Department shall ensure</b> that the advisory body consists of substantially equivalent proportions of the following four groups:</p> <ul style="list-style-type: none"> <li>- private citizens,</li> <li>- representatives of public interest groups,</li> <li>- public officials, and</li> <li>- citizens or representatives of organizations with substantial economic interest in the plan.</li> </ul> <p><b>! The advisory committee shall specifically include a representative of:</b></p> <ul style="list-style-type: none"> <li>- a waste treatment operator,</li> <li>- a waste generator,</li> <li>- local governments,</li> <li>- environmentalists, and</li> <li>- academic scientists.</li> </ul>
		<i>[6018.507(d)]</i>	<p><b>! A vacancy occurring on the committee shall be filled in the same manner as the original appointment and the secretary or his representative shall serve as chairperson of the committee.</b></p>
The Hazardous Waste Facilities Planning Advisory Committee: Duties and responsibilities	PPA	<i>[6018.507(c)]</i>	<p><b>! The committee may recommend</b> to the Department the adoption of such rules and regulations, standards, criteria and procedures as it deems necessary and advisable for the preparation, development, adoption and implementation of the Pennsylvania Hazardous Waste Facilities Plan.</p>
		<i>[6018.507(e)]</i>	<p><b>! The committee shall establish</b> operating procedures and <b>may solicit</b> the advice of municipalities or other persons.</p>
		<i>[6018.507(f)]</i>	<p><b>! The committee shall disband</b> after the adoption of the plan by the Environmental Quality Board unless the committee is reconstituted as a provision of the plan.</p>

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The Secretary of the Department: Duties relative to application procedures	PPA	<i>[Act 1988-108, Section 309(b)]</i>	<p>! <b>Within three months after the effective date of the act, the secretary shall set forth</b> guidelines by which any person interested in establishing a commercial hazardous waste treatment or disposal facility may submit the siting modules and the remainder of a permit application directly to the siting team.</p> <p>! The guidelines <b>shall instruct</b> applicants on siting criteria and permit requirements, application timetables and the review process.</p>
<b>The Environmental Quality Board (the EQB)</b>			
The Environmental Quality Board: Duties and responsibilities	PPA PP	<p><i>[6018.105(a)]</i></p> <p><i>[6018.105(f)]</i></p> <p><i>[6018.105(f)(3)]</i></p>	<p>The Environmental Quality Board (EQB) has the power and duty to adopt the rules, regulations, criteria and standards to accomplish the purposes and to carry out the provisions of the solid waste management act.</p> <p>! <b>EQB also has the power and duty</b> to assist in the implementation of the Pennsylvania Hazardous Waste Facilities Plan through the <b>issuance of certificates of public necessity for the establishment of hazardous waste treatment or disposal facilities.</b></p> <p>With respect to the issuance of certificates of public necessity, EQB is responsible for the following:</p> <p>! Issuing such certificates of public necessity for the operation of hazardous waste treatment and disposal facilities as are warranted by:</p> <ul style="list-style-type: none"> <li>- the extent to which the facility is in conformance with the Pennsylvania Hazardous Waste Facilities Plan;</li> <li>- the impact of the proposed facility on adjacent populated areas and areas through which wastes are transported to such facility;</li> <li>- the impact on the borough, township, town or city in which the facility is to be located in terms of health, safety, cost and consistency with local planning; and</li> </ul>

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The Environmental Quality Board: Duties and responsibilities (continued)		<p><i>[6018.105(f)(4)]</i></p> <p><i>[6018.105(f)(5)]</i></p> <p><i>[6018.105(g)]</i></p> <p><i>[6018.105(i)]</i></p>	<p>- the extent to which the proposed facility has been the subject of a public participation program in which citizens have had a meaningful opportunity to participate in evaluation of alternate sites or technologies, development of siting criteria, socioeconomic assessment, and all other phases of the site selection process.</p> <p>! Providing the public with opportunities to comment upon the application for certificate of public necessity and consider the comments submitted.</p> <p>! Accepting applications for certificates of public necessity only from persons or municipalities that have obtained the necessary solid waste treatment or disposal permits from the Department of Environmental Protection or from the Federal agency authorized to issue such permits in the Commonwealth.</p> <p>In carrying out its powers and duties, <b>the EQB may consult</b> with any person and hold any hearings which it deems necessary and proper to enable it to render a decision to issue or deny the certificate of public necessity; in any such hearing, the EQB shall be represented by a minimum of three members.</p> <p>During all EQB deliberations, a representative of the county and township, borough or municipality affected will be invited to participate.</p>
The Environmental Quality Board: Adoption of the Pennsylvania Hazardous Waste Facilities Plan	PPA	<i>[6018.507(g)]</i>	Not later than two years after the date of enactment of the Solid Waste Management Act, the Environmental Quality Board <b>shall adopt</b> the Pennsylvania Hazardous Waste Facilities Plan.
<b>INTERAGENCY COORDINATION</b>			
<b>County Health Departments</b>			
County Health Departments: Powers	PPA PA PDP	<i>[6018.106(a)]</i>	The <b>county health department may elect</b> to administer and enforce any of the provisions of the Solid Waste Management Act together with the Department of Environmental Protection in accordance with the Department's established policies, procedures, guidelines, standards and rules and regulations.

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County Health Departments: Limitation of powers	PPA PA PDP	<i>[6018.106(b)]</i>	In any case where the administration and enforcement of the act by a county health department conflicts with the those by the Department of Environmental Protection, administration and enforcement by the Department shall take precedence.
<b>The Department of Commerce</b>			
The Department of Commerce	PPA	<i>[Act 1988-108, Section 311(a)]</i>	<p>! <b>The Department of Commerce shall be responsible</b> for identifying and encouraging potential commercial hazardous waste treatment or disposal facility developers to establish facilities within the Commonwealth.</p> <p>! <b>The Department of Commerce shall coordinate</b> business outreach efforts with the needs and priorities of:</p> <ul style="list-style-type: none"> <li>- the Pennsylvania Hazardous Waste Facilities Plan and</li> <li>- siting criteria adopted under the Solid Waste Management Act.</li> </ul>
The Department of Commerce: Duties and responsibilities	PPA  PPA	<i>[Act 1988-108, Section 311(b)]</i>  <i>[Act 1988-108, Section 311(d)]</i>	<p>! The <b>Secretary of Commerce shall designate</b> a commercial hazardous waste facility siting coordinator to serve as the department's liaison with potential commercial treatment and disposal facility developers, other State agencies and local governments.</p> <p>! <b>The Department of Commerce shall ensure</b> that interested developers are advised of and assisted in the use of available State financial assistance programs in order to encourage the siting of new commercial hazardous waste treatment or disposal facilities in the Commonwealth.</p> <p>! <b>The Department of Commerce shall also ensure</b>, as allocations permit, the availability of tax-exempt industrial development bonds for commercial hazardous waste treatment or disposal facilities.</p>

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Department of Commerce's siting coordinator: Overall duties and responsibilities	PPA	<i>[Act 1988-108, Section 311(b)]</i>	<p>! <b>The siting coordinator shall develop and be responsible for</b> State efforts aimed at:</p> <ul style="list-style-type: none"> <li>- business outreach,</li> <li>- preliminary site evaluation assistance, and</li> <li>- the packaging of available financial assistance programs.</li> </ul> <p>! For the effective performance of these duties, <b>the siting coordinator shall have the ability</b> to directly utilize members of the Department of Environmental Protection's siting team, as well as employees of other State agencies, to coordinate necessary activities pursuant to the act.</p>
Department of Commerce's siting coordinator: Duties relative to technical assistance for site selection	PPA	<i>[Act 1988-108, Section 311(c)]</i>	<p>! <b>The siting coordinator shall assist</b> interested developers in the <b>identification of potential locations</b> for proposed commercial hazardous waste treatment or disposal facilities.</p> <p>! The assistance <b>shall be</b> limited to the examination of non-environmental site selection factors, including access to transportation networks and markets.</p>
<b>INDEPENDENT SITING BOARD</b>			
<b>The Hazardous Waste Facility Siting Team</b>			
Establishment and Composition of the Department's Hazardous Waste Facility Siting Team	PPA	<i>[Act 1988-108, Section 309(a)]</i>	<p>! <b>Within 30 days after the effective date of the act, the secretary shall establish a Hazardous Waste Facility Siting Team</b> consisting of Department personnel with the particular expertise necessary for the complete review of permit applications for <b>commercial hazardous waste treatment or disposal facilities</b>.</p> <p>! <b>The secretary shall select</b> siting team representatives from each section of review required under 25 Pa. Code Chapter 269 (formerly 25 Pa. Code Chapter 75, Subchapter F) and other applicable law and regulations relating to the review and approval of permit applications.</p> <p>! Members of the siting team <b>shall include</b>:</p> <ul style="list-style-type: none"> <li>- attorneys,</li> <li>- engineers, and</li> <li>- other administrative and program personnel considered essential by the secretary for expedited review of permit applications.</li> </ul>

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The Siting Team: Duties relative to site review	PA	<i>[Act 1988-108, Section 309(c)]</i>	<b>! Within five months of the receipt</b> of an administratively complete siting module portion of a permit application for a commercial hazardous waste treatment or disposal facility, <b>the siting team shall complete</b> its review of the siting modules to determine the conformity of the proposed site to the Chapter 269 siting criteria.
The Siting Team: Duties relative to permit review	PA	<i>[Act 1988-108, Section 309(d)]</i>	<b>! Within 90 days of receipt of the remainder of a permit application</b> to operate a commercial hazardous waste treatment or disposal facility, <b>the siting team shall review</b> the permit application to determine whether it is administratively complete.  <b>! If the application is not administratively complete, the siting team shall</b> return the application to the applicant, along with a written statement indicating the deficiencies of the permit application.
	PA	<i>[Act 1988-108, Section 309(e)]</i>	<b>! Within ten months of the date of determination by the siting team</b> that a permit application is administratively complete, <b>the siting team shall complete its review</b> of the application and <b>shall recommend</b> to the secretary either the approval or the disapproval of the permit application.
	PA	<i>[Act 1988-108, Section 313(e)]</i>	<b>! The Department shall complete its review</b> of any permit application for a <b>commercial hazardous waste disposal facility</b> which is deemed administratively complete and has been filed with the Department <b>prior to or on July 1, 1992</b> ; after July 1, 1992, this authority goes to the Hazardous Waste Facility Siting Commission.
The Siting Team: Duties relative to availability	PA	<i>[Act 1988-108, Section 309(c)]</i>	<b>Members of the siting team shall be available</b> to the applicant and the governing bodies of the proposed host county and host municipality for the purpose of discussing the siting modules and their conformity with the siting criteria.

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<b>The Hazardous Waste Facility Siting Commission</b>			
Establishment of the Hazardous Waste Facility Siting Commission (the Commission)	PPA	<i>[Act 1988-108, Section 312(a)]</i>	In the event no <b>commercial hazardous waste disposal facility</b> has been permitted by July 1, 1992, an independent agency, <b>the Hazardous Waste Facility Siting Commission</b> , is hereby established.
	PA	<i>[Act 1988-108, Section 313(e)]</i>	<b>!</b> The siting module portion of a permit application for a commercial hazardous waste disposal facility that is subject to review subsequent to July 1, 1992, <b>shall be filed</b> with the Commission.
	PA		<b>!</b> For the purpose of implementing Section 313, the authority of the Department of Environmental Protection with regard to the review and approval of the siting module portion of a permit application for a commercial facility is transferred to the Hazardous Waste Facility Siting Commission only to the extent that it relates to the siting of a commercial hazardous waste disposal facility within the Commonwealth.
	PPA	<i>[Act 1988-108, Section 312(f)]</i>	Notwithstanding other provisions, the Commission shall be established within one year of the Department's receipt of a notice from the U.S. Environmental Protection Agency that Federal funds for response actions will not be provided to the Commonwealth because of failure to comply with the provisions of §104(b)(9) of the Federal Superfund Act.

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Hazardous Waste Facility Siting Commission (the Commission): Membership and structure	PPA	<i>[Act 1988-108, Section 312(a)]</i>	<p>! Consists of <b>seven</b> members appointed as follows:</p> <ul style="list-style-type: none"> <li>- three members are appointed by the Governor, one of whom is the chairman;</li> <li>- one is appointed by the President pro tempore of the Senate;</li> <li>- one is appointed by the Speaker of the House of Representatives;</li> <li>- one is appointed by the Minority Leader of the Senate; and</li> <li>- one is appointed by the Minority Leader of House of Representatives.</li> </ul> <p>! Persons appointed <b>shall be knowledgeable</b> in the fields of:</p> <ul style="list-style-type: none"> <li>- hazardous waste management,</li> <li>- environmental protection,</li> <li>- municipal government, or</li> <li>- other pertinent fields.</li> </ul> <p>! Appointment to the Commission shall be in such a manner as to fairly represent:</p> <ul style="list-style-type: none"> <li>- local government,</li> <li>- industry, and</li> <li>- public interest groups.</li> </ul>
		<i>[Act 1988-108, Section 312(b)]</i>	<p>! Each appointment <b>shall be</b> for a term of <b>three years</b>. All vacancies shall be filled for the remainder of the unexpired term by the respective appointing authority. Upon expiration of a term, a member shall continue to hold office until a successor is appointed. No member <b>may be removed</b> from office except for cause by the respective appointing authority.</p>
		<i>[Act 1988-108, Section 312(c)]</i>	<p>! Commission members <b>shall receive compensation</b> for their services as set by the Executive Board.</p>
		<i>[Act 1988-108, Section 312(d)]</i>	<p>! The Commission <b>shall meet</b> as necessary to carry out its business, but not less than four times per year.</p>

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Hazardous Waste Facility Siting Commission (the Commission): Initial meeting	PPA	<i>[Act 1988-108, Section 312(e)]</i>	<p>! <b>The chairman, within two weeks</b> following the appointment of the members of the Commission, <b>shall convene</b> an organizational meeting.</p> <p>! <b>The Commission shall appoint</b> and fix the compensation of an executive director, <b>within 60 days</b> of the organizational meeting, and <b>may appoint</b> and fix the compensation of such other employees as necessary.</p>
Hazardous Waste Facility Siting Commission (the Commission): General powers and duties	PPA	<i>[Act 1988-108, Section 313(a)]</i>	<p>The <b>Commission shall have</b> the power and its duties <b>shall be</b> to:</p> <p>! cooperate with interested persons to identify areas suitable for siting hazardous waste disposal facilities;</p> <p>! review and approve or disapprove the siting module portion of hazardous waste disposal facility permit applications; and</p> <p>! assist local governments in planning for the siting of hazardous waste disposal facilities or in reviewing the siting module portion of applications for such facilities.</p>

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Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Hazardous Waste Facility Siting Commission (the Commission): Duties relative to siting new hazardous waste disposal facilities	PPA	<i>[Act 1988-108, Section 313(b)]</i>	The Commission's duties and responsibilities regarding the siting of hazardous waste disposal facilities are as follows:  ! <b>Within 90 days</b> of the organizational meeting, <b>the Commission shall establish</b> a schedule that outlines the process for siting new hazardous waste disposal facilities identified in the Pennsylvania Hazardous Waste Facilities Plan. The schedule <b>may be amended</b> from time to time.
	PPA	<i>[Act 1988-108, Section 313(b)]</i>	! <b>The Commission shall apply</b> the siting criteria and <b>shall identify</b> potentially suitable sites for hazardous waste disposal facilities.  ! <b>The Commission may solicit</b> proposals from interested persons to develop disposal facilities at such sites as may be identified by the Commission.  ! If no such proposals are received by January 1, 1994,  - The <b>Commission may</b> make application, in the name of the Commonwealth, to the Department for the necessary permits to establish a State-owned hazardous waste disposal facility.  - The <b>Commission shall be authorized</b> to lease real estate owned by the Commonwealth which is not being used by any department, board or commission for a period of not more than 50 years to individuals, firms, corporations or the Federal government and shall have the power of eminent domain to acquire a site or sites as may be deemed necessary, for the purpose of establishing a hazardous waste disposal facility.

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## Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
<b>LOCAL COMMUNITY NEEDS AND INVOLVEMENT</b>			
<b>LOCAL REVIEW/INVOLVEMENT</b>			
Review of siting module	PA	<i>[Act 1988-108, Section 309(c)]</i>	<b>To facilitate the review of the siting module</b> portions of the permit application by the host county and host municipality, grants may be made available pursuant to section 304(d).
Approval by local governing body	PA	<i>[6018.504]</i>	<p>! Applications for a permit <b>shall be reviewed by the appropriate county, county planning agency or county health department</b> where they exist and the <b>host municipality</b>.</p> <p>! <b>The governing body may recommend</b> to the Department conditions upon, revisions to, or disapproval of the permit only if specific cause is identified.</p> <p>! <b>The Department shall be required to</b> publish in the Pennsylvania Bulletin its justification for overriding the county's recommendation.</p> <p>! If the Department <b>does not receive comments within 60 days</b>, the county shall be deemed to have waived its right to review.</p>
Submission of complete Certificate of Public Necessity (CPN) application to local government review	PP	269.131(c)	Upon determination that a Certificate of Public Necessity (CPN) application is complete, <b>the chairperson of the EQB will provide</b> a copy of the complete CPN application to the host county and host municipality.
Local government involvement in review of CPN application	PP	269.132	<p>! After accepting a <b>complete CPN application</b>, the <b>EQB will ask</b> the governing body of the host county and the host municipality to name one representative who will be invited to be present during EQB deliberations and hearings and receive copies of materials given to EQB members during the review of the CPN application.</p> <p>! Local government representatives have no voting rights on the EQB.</p> <p>! Local government representatives are reimbursed for expenses incurred.</p>
Public review and comment on a CPN application	PP	269.131(c)	<b>The EQB</b> , upon determination that a CPN application is complete, <b>will initiate public review and comment procedures outlined in §§ 269.132 and 269.141 and notify</b> the applicant.

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Establishment of a local docket for public review of a CPN application	PP	269.142(a)&(c)	<p><b>! The EQB will establish a docket</b> in a publicly accessible location in the host municipality or county as near as practical to the proposed facility where materials related to the EQB's consideration of the CPN application can be made available for <b>public review</b>.</p> <p><b>! If the docket is located in a publicly owned or operated building, the EQB will compensate</b> the building owner or operator for the cost of maintaining the docket for public review. The cost will be recovered as part of the cost of review of the application in the application fee.</p>
<b>OTHER AGENCY OR GOVERNMENTAL ENTITY INVOLVEMENT</b>			
Submittal of fact sheet or statement of basis, draft permit and permit application to other agencies	PDP	270.41(g)	<p>A copy of the fact sheet or statement of basis, the draft permit and, if applicable, the permit application <b>will be mailed</b> to:</p> <ul style="list-style-type: none"> <li>- an agency which the Department knows has issued or is required to issue a RCRA, UIC, PSD, NPDES or 404 permit for the same facility, including EPA.</li> <li>- an appropriate Federal or State agency with jurisdiction over fish, shellfish and wildlife resources or coastal zone management plans, State Historic Preservation Officers, Advisory Council on Historic Preservation, and other appropriate government authorities, including affected states.</li> </ul>
<b>COMPATIBILITY OF FACILITY SITE WITH LOCAL SOLID WASTE MANAGEMENT PLANS</b>			
See provision addressing <b>impact of facility on local land use</b> .			

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
<b>IMPACT OF FACILITY ON LOCAL LAND USE</b>			
Impact of facilities on land use (New facilities)	PA	269.45(a)	<p><b>!</b> For <b>new treatment and disposal facilities</b> located on lands that are not designated for industrial use by existing municipal zoning, or are not indicated as industrial <b>in officially adopted county or municipal comprehensive plans or land use maps, the applicant shall provide</b> information and analysis to allow the Department to assess the compatibility of the design of the proposed facility with zoning or land use controls.</p>
(Existing facilities)		269.45(b)	<p><b>!</b> Where no zoning exists, <b>the applicant shall provide</b> information and analysis to allow the Department to assess compatibility with existing land use.</p> <p><b>!</b> <b>Treatment and disposal facilities located on sites</b> where solid waste or hazardous waste operations or both are currently being conducted are deemed to comply with the land use criteria.</p>

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## Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
<b>PUBLIC PARTICIPATION</b>			
<b>The federal regulations regarding the public participation process for the permitting of hazardous waste (RCRA) facilities can be viewed at <a href="http://earth1.epa.gov/epacfr40/chapt-I.info/subch-D/40P0124.pdf">http://earth1.epa.gov/epacfr40/chapt-I.info/subch-D/40P0124.pdf</a> within the Part 124 Procedures for Decisionmaking. (State regulations cannot be less stringent than the federal counterparts.)</b>			
<b>NOTIFICATION</b>			
Public notice of filing of siting modules	PA	<i>[Act 1988-108, Section 309(c)]</i>	<b>The applicant</b> , upon filing the siting modules with the siting team, <b>shall provide</b> written notification of such filing to the governing bodies of the proposed host county and host municipality.
Notification regarding conformity of siting modules with siting criteria	PA	<i>[Act 1988-108, Section 309(c)]</i>	<b>The siting team shall notify in writing</b> the following parties regarding the conformity of the siting modules with the siting criteria in writing: <ul style="list-style-type: none"> <li>- the applicant,</li> <li>- the host county, and</li> <li>- the host municipality.</li> </ul>
Public notice of secretary's decision following recommendation from siting team	PA	<i>[Act 1988-108, Section 309(e)]</i>	<p><b>! Within 30 days after receipt of a recommendation from the siting team, the secretary shall</b> publish a notice of the intent to either approve or disapprove the permit application.</p> <p><b>! Appeals of any decision</b> of the secretary on the permit application <b>shall be as provided</b> by applicable law.</p>
Public notice of tentative permit denial	PA	270.41(a)(1) 270.41(b)	<b>The Department will give</b> public notice that a permit application has been tentatively denied under §270.33(h). The notice <b>shall allow at least 45 days</b> for public comment.
Public notice of draft permit	PDP	270.41(a)(2) 270.41(b)	The <b>Department will give</b> public notice that a draft permit has been prepared under §270.33(i). The notice <b>shall allow at least 45 days</b> for public comment.
Public notice of hearing on a permit	PDP	270.41(a)(3) 270.41(c) 270.42(b)(5)	The <b>Department will give</b> public notice, <b>at least 30 days before the hearing</b> , that a hearing has been scheduled under §270.42(b).

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Public notice methods/recipients regarding a permit	PDP	270.41(d)	<p><b>The Department will give</b> public notice for activities described in §270.41(a) by the following methods:</p> <p><b>!</b> <b>Mailing</b> a copy of the notice to:</p> <ul style="list-style-type: none"> <li>- the applicant;</li> <li>- an agency which the Department knows has issued or is required to issue a RCRA, UIC, PSD, NPDES or 404 permit for the same facility, including EPA;</li> <li>- an appropriate Federal or State agency with jurisdiction over fish, shellfish and wildlife resources or coastal zone management plans, State Historic Preservation Officers, Advisory Council on Historic Preservation, and other appropriate government authorities, including affected states;</li> <li>- a person on a mailing list developed by the Department (including requesters, participants in past permit proceedings, and members of the public notified of the opportunity to be put on the mailing list through periodic publications);</li> <li>- a unit of local government having jurisdiction over the area where the facility is proposed to be located; and</li> <li>- a State agency having authority under State statute with respect to the construction or operation of the facility.</li> </ul> <p><b>!</b> Publication of a notice in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.</p> <p><b>!</b> In a manner constituting legal notice to the public under State statute.</p> <p><b>!</b> Any other methods reasonably calculated to give actual notice of the action in question to a person potentially affected by it, including press releases or another form or medium to elicit public participation.</p>

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
General contents for public notice for a permit	PDP	270.41(e)	<p>Public notices regarding a permit <b>shall contain</b>, at a minimum:</p> <ul style="list-style-type: none"> <li>- name and address of the office processing the permit action;</li> <li>- name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;</li> <li>- brief description of the business conducted at the facility or activity described in the permit application or the draft permit;</li> <li>- name, address and phone number of a person to contact for additional information;</li> <li>- brief description of the required comment procedures;</li> <li>- the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing is already scheduled);</li> <li>- other procedures by which the public may participate in the final permit decision; and</li> <li>- additional information which the Department considers necessary or proper.</li> </ul>
Additional information for a public notice of a hearing for a permit	PDP	270.41(f)	<p>The public notice of a hearing under §270.42 <b>shall also contain</b>:</p> <ul style="list-style-type: none"> <li>- a reference to the date of previous public notices related to the permit;</li> <li>- date, time and place of the hearing; and</li> <li>- a brief description of the nature and purpose of the hearing, including applicable rules and procedures.</li> </ul>

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Public notice of CPN application submission	PP	269.124	<p><b>!</b> Within 10 days of the submittal of a CPN application, the applicant shall provide written notice by certified mail to:</p> <ul style="list-style-type: none"> <li>- the host municipality and host county,</li> <li>- other counties within 10 miles and other municipalities within 1 mile of the proposed facility, and</li> <li>- landowners adjacent to the proposed site.</li> </ul> <p><b>!</b> The applicant for a CPN shall publish a notice in a display advertisement in two newspapers of general circulation in the county of the proposed site once a week for 2 successive weeks and send proof (e.g. certified mail receipts and proof of publication from newspaper publishers) to the EQB.</p> <p><b>!</b> The notice regarding a CPN application submittal shall also include:</p> <ul style="list-style-type: none"> <li>- the name, address and telephone number of the applicant,</li> <li>- the name and location (municipality and county) of the facility,</li> <li>- a brief description of the business conducted or activity described in the application, and</li> <li>- a contact person in the applicant's office from whom interested citizens may obtain further information.</li> </ul>
Maintenance of a mailing list for public notices of a CPN application	PP	269.142(b)	<b>The EQB will establish</b> and maintain a mailing list of persons interested in receiving notices concerning a CPN application.
Notification regarding EQB consideration of a complete CPN application	PP	269.141 intro	<b>The EQB will issue</b> a press release and publish a notice in the <i>Pennsylvania Bulletin</i> and two newspapers of general circulation in the county of the proposed facility <b>once a week for 2 successive weeks</b> stating that the EQB is considering a complete application for a CPN.

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Content of CPN application notice	PP	269.141(1)-(5)	<p>A <b>notice and press release</b> regarding a <b>CPN application shall include</b> the following items:</p> <ul style="list-style-type: none"> <li>- the name, address and telephone number of the applicant,</li> <li>- the location and description of the proposed facility,</li> <li>- a description of the process followed by the EQB to consider an application for a CPN,</li> <li>- the location of a local docket where application materials can be reviewed by interested persons in the host municipality or county, and</li> <li>- an invitation to interested persons to include their name on a mailing list established by the EQB to receive future notices concerning the CPN application.</li> </ul>
Notice of a hearing on CPN application	PP	269.143(b)	The <b>EQB will</b> give notice of a hearing on a CPN application <b>at least 30 days</b> before the hearing as outlined in §269.141 and to those on the mailing list in §269.142.
<b>PUBLIC MEETING</b>			
Public meeting on siting module application	PA	<i>[Act 1988-108, Section 309(c)]</i>	<b>The siting team shall conduct</b> at least one public meeting on the application at a location near the proposed site <b>during the five-month review period.</b>
<b>PUBLIC HEARINGS</b>			
Public hearing on siting module application	PA	<i>[Act 1988-108, Section 309(c)]</i>	<b>The siting team shall conduct</b> one public hearing on the application at a location near the proposed site <b>during the five-month review period.</b>

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Public comment and request for hearing on a permit	PDP	270.42(a)	<p>! During the public comment period under §270.41, <b>any interested person may</b> submit written comments on <b>the draft permit or permit application</b> and <b>may request</b> a public hearing, if no hearing has already been scheduled.</p> <p>! The <b>request must</b> be in writing and <b>shall state</b> the nature of the issues proposed to be raised in the hearing.</p> <p>! <b>The Department will consider</b> comments in making its final decision and <b>will answer</b> these comments as provided in §270.33(m) (i.e., the <b>Department will issue</b> a response to comments and make the comments available to the public).</p>
	PDP	270.42(b)(1)	<p>! The <b>Department will hold</b> a public hearing whenever, on the basis of requests received, it determines that a significant degree of public interest in a draft permit exists.</p>
Public hearing on a permit held at the discretion of the Department	PDP	270.42(b)(2)	<b>The Department may, in its discretion,</b> hold a public hearing whenever a hearing might clarify issues involved in the permit decision.
Public hearing on a permit held on the basis of written opposition	PDP	270.42(b)(3)	<b>The Department will hold</b> a public hearing whenever it receives written notice of opposition to a draft permit and a request for a hearing <b>within 45 days</b> of the public hearing notice.
Location of public hearings on permit	PDP	270.42(b)(4)	<b>The Department will, when possible,</b> schedule a hearing at a location convenient to the nearest population center to the proposed facility.

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Public hearing procedures	PDP	270.42(b)(6) 270.42(b)(7)	<p>! <b>A person may submit</b> oral or written statements and data concerning the draft permit before, during, or after the public hearing.</p> <p>! <b>The Department may set</b> reasonable limits upon the time allowed for oral statements and <b>may require</b> the submission of statements in writing.</p> <p>! The public comment period under §270.41 <b>will automatically be extended</b> to the close of a public hearing.</p> <p>! <b>The Department's hearing officer may</b> also extend the comment period by so starting at the hearing.</p> <p>! <b>The Department will make</b> a tape recording or written transcript of the hearing available to the public.</p>
Public hearing for a CPN application	PP	269.143(a) 269.143(c)-(e)	<p>! <b>The EQB will schedule</b> at least one public hearing on the application in the host municipality or county <b>within 90 days</b> of the acceptance of a complete application for consideration.</p> <p>! <b>A minimum of three members of the EQB will be present</b> at a hearing scheduled on the CPN application.</p> <p>! The hearing <b>shall be transcribed</b> and the transcript <b>shall be made available to the EQB</b> for review.</p> <p>! The <b>public comment</b> period on a CPN application will remain open for <b>at least 30 days after</b> the last public hearing.</p> <p>! <b>The EQB may</b> extend the <b>public comment</b> period <b>up to 60 days</b> if significant new information warrants the extension.</p>

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
<b>ADJUDICATORY HEARINGS</b>			
No provisions found.			
<b>OTHER PUBLIC PARTICIPATION REQUIREMENTS</b>			
No other provisions found.			

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# Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
<b>SITING RESTRICTIONS AND PROHIBITIONS</b>			
Federal siting restrictions and prohibitions can be viewed at <a href="http://www.epa.gov/epacfr40/chapt-I.info/subch-I/">http://www.epa.gov/epacfr40/chapt-I.info/subch-I/</a> by selecting “Part 264 (Updated 1997) - Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities”. The regulatory requirements are in Location Standards at 264.18 in the document. (State regulations cannot be less stringent than the federal counterparts.)			
<b>SOIL AND WATER</b>			
pH of Soils (Phase II)	PA	269.43(a)	For land farming (treatment) facilities located so the <b>soil pH</b> within the proposed facility is <b>less than 6.0</b> , the applicant shall provide information and analysis to allow the Department to assess the ability of the proposed facility to mitigate adverse environmental effects resulting from incompatible soil pH.
Cation exchange capacity of soil (Phase II)	PA	269.43(b)	If a <b>surface impoundment, landfill or land treatment facility</b> is to be located in an area where the <b>capacity of the soil to exchange cations</b> , expressed as a sum for all exchangeable cations, is <b>less than 15 milliequivalents per 100 grams of soil</b> , the applicant shall provide information and analysis to allow the Department to assess the soil cation exchange capacity in relation to the potential for migration of contaminants from the proposed facility.
Proximity to water supplies (Phase I)	PA	269.21(a)  269.21(a)(1) 269.21(a)(2)  269.21(a)(3)	<b>Landfill, land treatment and surface impoundment facilities may not be sited</b> in the following locations:  - within 1/2 mile of a well or spring used for a community water supply;  - within 1/2 mile of either side of a stream or impoundment for a distance of 5 stream miles upstream of a surface water intake for a community water supply; or  - within 1/2 mile of an offsite private or noncommunity public well or spring used as an active water supply, <b>unless</b> prior to operation of the facility <b>the applicant demonstrates</b> the availability of an acceptable permanent alternative supply of like quantity, yield and quality to the existing supply and meets certain financial assurance requirements. Specific requirements for providing a permanent alternative supply are outlined at 269.21(b).

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Impact on groundwater recharge areas for water supplies and water treatment plants (Phase II)	PA	269.41(a)	<p>! The <b>applicant shall determine</b> whether a proposed <b>surface impoundment, landfill or land treatment facility</b> is within the groundwater recharge area for public or private water supplies.</p> <p>! The <b>applicant shall identify</b> all public and private water supplies and water treatment plants that may potentially be adversely affected by groundwater flow associated with the proposed hazardous waste facility.</p>
	PA	269.41(b)	<p>! For water supplies and water treatment plants that <b>may be affected</b> by the proposed facility, the <b>applicant shall submit</b> a detailed hydrogeologic study.</p>
	PA	269.41(c)	<p>! For water supplies and water treatment plants which the hydrogeologic study indicates <b>may be adversely affected</b> by the proposed facility, <b>the applicant shall demonstrate</b>:</p> <ul style="list-style-type: none"> <li>- the hydrogeologic characteristics of the proposed facility site and adjacent areas assure that implementation of a groundwater monitoring well program will provide protection of water supplies or water treatment plants from potential contamination, and</li> <li>- the feasibility of providing a permanent alternative water supply acceptable to the water supply owner of like quantity and quality to the existing supply at no additional cost to the owner.</li> </ul>
Exceptional value waters (Phase I)	PA	269.29	Treatment and disposal facilities <b>may not be sited</b> in watersheds of exceptional value waters.
Impact on exceptional value waters (Phase II)	PA	269.50(b)(13)	If a facility is proposed to be located in a watershed for which a formal written request for designation as exceptional value waters has been received by the Department or the EQB, <b>the applicant shall provide</b> information and analyses to allow the Department to assess the impact of the proposed facility on the pending designation.

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Impact on high quality waters (Phase II)	PA	269.50(b)(14)	<p>If a facility generates a wastewater discharge that could degrade waters designated as high quality waters under Chapter 93 (i.e., is located within a Special Protection Watershed) or waters for which a formal written request for designation as high quality waters has been received by the Department or the EQB, <b>the applicant shall demonstrate that:</b></p> <ul style="list-style-type: none"> <li>- the discharges are justified as a result of necessary economic or social development which is of significant public value, and</li> <li>- the discharges, alone or in combination with other anticipated discharges, will not preclude a use presently possible and will not result in a violation of the numerical water quality criteria specified in §93.9.</li> </ul>
Carbonate bedrock areas (Phase I)	PA	269.25	<b>Surface impoundments, landfills and land treatment facilities may not be sited</b> over limestone or carbonate formations, where the formations are greater than 5 feet in thickness and present at the topmost geologic unit.
Bedrock depth (Phase II)	PA	269.42(b)	For <b>surface impoundment, landfill and land treatment facilities</b> , the <b>applicant shall address</b> bedrock depths of less than 15 feet by providing information and analysis to allow <b>the Department to assess</b> the compatibility of the design and construction of the proposed facility with the bedrock depth.
Carbonate areas (Phase II)	PA	269.42(f)	Where <b>surface impoundment, landfill and land treatment and disposal facilities</b> are proposed over areas underlain by carbonate bedrock, the <b>applicant shall provide</b> information and analysis to allow <b>the Department to assess</b> the prevalence of solution channels and the potential for sinkholes at the facility site.
Hydrogeology (Phase II)	PA	269.42(g)	<p><b>! A surface impoundment, landfill or land treatment facility may not be located</b> in an area underlain by coarse unconsolidated deposits, such as well sorted valley fill deposits and heavily fractured bedrock.</p> <p><b>! If any other facility is to be located in such an area, the applicant shall provide</b> information and analyses to allow <b>the Department to further assess</b> the facility site to determine the environmental impact of these subsurface conditions.</p>

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
<b>SEISMIC CONSIDERATIONS</b>			
Faults (Phase II)	PA	269.42(a)	<b>If the proposed facility is within 1 mile</b> of a major structural feature, <b>the applicant shall</b> provide information and analysis to allow the Department to assess the compatibility of the proposed facility design with the faults in the area.
Seismic risk zones (Phase II)	PA	269.42(h)	<b>If the proposed treatment or disposal facility is within a 5-mile radius of earthquake epicenters</b> , the <b>applicant shall specify</b> design measures necessary to withstand potential seismic events, and the <b>Department will determine</b> whether the proposed design measures provide adequate protection from potential earthquake damage.
<b>FLOODING AND EROSION</b>			
Location of certain facilities in 100-year floodplain prohibited (Phase I)	PA	269.22(a)	<b>Surface impoundment, landfill and land treatment facilities may not be sited</b> in the 100-year floodplain or a larger area that the flood of record has inundated.
Location of certain facilities in 100-year floodplain prohibited unless certain conditions are met (Phase I)	PA	269.22(b)	<b>Treatment and incineration facilities may not be sited</b> in the 100-year floodplain or a larger area that the flood of record has inundated <b>unless</b> the industrial use of the proposed site was in existence as of October 4, 1978 (the effective date of the Flood Plain Management Act).
Slopes (Phase II)	PA	269.42(c)	For slopes <b>greater than 15%</b> for a <b>surface impoundment, landfill or land treatment facility</b> , the <b>applicant must submit</b> information and analysis to allow the <b>Department to assess</b> the compatibility of the design and construction measures for the proposed facility that would minimize adverse effects.
Landslide prone areas (Phase II)	PA	269.42(d)	If a facility site is in a landslide-prone area or is adjacent to a landslide-prone area, <b>the applicant shall submit</b> information and analyses to allow the <b>Department to assess</b> whether the design measures provide adequate protection from potential landslides.
<b>AIR</b>			
No provisions found.			

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
<b>DISTANCE LIMITATIONS/BUFFER ZONES</b>			
Distance from a well or spring used for community water supply (Phase I)	PA	269.21(a)(1)	<b>Landfill, land treatment and surface impoundment facilities may not be sited within 1/2 mile</b> of a well or spring used for a community water supply.
Distance from surface water intake for a community water supply (Phase I)	PA	269.21(a)(2)	<b>Landfill, land treatment and surface impoundment facilities may not be sited within 1/2 mile</b> of either side of a stream or impoundment for a distance of 5 stream miles upstream of a surface water intake for a community water supply.
Distance from offsite private or noncommunity public well or spring (Phase I)	PA	269.21(a)(3)	<b>Landfill, land treatment and surface impoundment facilities may not be sited within 1/2 mile</b> of an offsite private or noncommunity public well or spring used as an active water supply, <b>unless</b> prior to operation of the facility <b>the applicant demonstrates</b> the availability of an acceptable permanent alternative supply of like quantity, yield and quality to the existing supply and meets certain financial assurance requirements. Specific requirements for providing a permanent alternative supply are outlined at 269.21(b).
Proximity to faults (Phase II)	PA	269.42(a)	<b>If the proposed facility is within 1 mile</b> of a major structural feature, <b>the applicant shall</b> provide information and analysis to allow the Department to assess the compatibility of the proposed facility design with the faults in the area.
Proximity to seismic risk zones (Phase II)	PA	269.42(h)	<b>If the proposed treatment or disposal facility is within a 5-mile radius of earthquake epicenters</b> , the <b>applicant shall specify</b> design measures necessary to withstand potential seismic events, and the <b>Department will determine</b> whether the proposed design measures provide adequate protection from potential earthquake damage.

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Proximity to facilities and structures (Phase II)	PA	269.48	<p><b>!</b> <b>Treatment and disposal facility sites</b> are deemed to be acceptable if the distance from the facility to the following structures is <b>greater than one mile</b>:</p> <ul style="list-style-type: none"> <li>- airport,</li> <li>- school,</li> <li>- community park,</li> <li>- hospital,</li> <li>- church,</li> <li>- retail center, or</li> <li>- nursing home.</li> </ul> <p><b>!</b> If this criterion cannot be met, <b>the applicant shall provide</b> information and analysis to allow the Department to assess the effect the proposed facility will have on the use of these facilities.</p>
Proximity to environmentally sensitive areas (Phase II)	PA	269.50(b)(1)-(10)	For proposed facilities <b>to be located within 1 mile</b> of environmentally sensitive areas ( <b>¼ mile in the case of a Pennsylvania historic or archaeological site</b> ), the applicant shall provide information and analyses to allow the Department to assess the extent to which the proposed facility may create adverse impacts. (See the section on Environmentally Sensitive Areas for detailed information.)
<b>OTHER HUMAN HEALTH CONSIDERATIONS</b>			
No provisions found.			

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
<b>ENVIRONMENTALLY SENSITIVE AREAS</b>			
Assessment of environmental impacts (Phase II)	PA	269.50(a)	<p><b>! The Department will determine</b> the potential impact of a proposed treatment or disposal facility on natural, scenic, historic and aesthetic values of the environment under Const. Art. I, §27.</p> <ul style="list-style-type: none"> <li>- After reviewing the applicant's environmental assessment report submitted in compliance with 269.50(b)(1)-(15) and after consulting with the applicant and relevant governmental agencies, <b>the Department will determine</b> whether significant harm will occur.</li> </ul>
	PA	269.50(b)	<p><b>! If the Department determines</b> that there is a significant impact on the environment, <b>the Department will consult with</b> the applicant to examine ways to reduce the environmental incursion to a minimum.</p> <p><b>! If, after consideration of mitigation measures, the Department finds that significant environmental harm will occur, the Department will evaluate the social and economic benefits</b> of the proposed facility to determine whether the harm outweighs the benefits. <b>The evaluation shall include:</b></p> <ul style="list-style-type: none"> <li>- a consideration of the impact of the proposed facility on the 15 types of environmental resources described at 269.50(b)(1)-(15);</li> <li>- the identification of additional potentially affected natural, scenic, historic or aesthetic values, and</li> <li>- additional potential impacts.</li> </ul>
Impact on endangered species (Phase II)	PA	269.50(b)(11)	<p>If the facility is located within an area which is a habitat of a rare, threatened or endangered species of plant or animal protected by the Endangered Species Act, or the Wild Resource Conservation Act or recognized by the Fish Commission or Game Commission, <b>the applicant shall provide</b> information and analyses to allow <b>the Department to assess:</b></p> <ul style="list-style-type: none"> <li>- the extent to which the proposed facility may create adverse effects, and</li> <li>- mitigation measures <b>the applicant has proposed</b> to deal with adverse impacts.</li> </ul>

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Location in wetlands prohibited (Phase I)	PA	269.23	<b>Treatment and disposal facilities may not be sited</b> in wetland areas.
Impact on corridors of wild and scenic streams and rivers (Phase II)	PA	269.50(b)(1)	If the proposed facility is <b>located within 1 mile</b> of the corridor of a stream or river designated as a national or State wild, scenic, recreational, pastoral or modified recreation river under the National Wild and Scenic Rivers Act of 1968, <b>the applicant shall provide</b> information and analyses to allow <b>the Department to determine</b> whether the proposed facility conforms to the designating statutes, land management guidelines and studies or plans for the corridor.
Impact on banks of wild and scenic streams or rivers (Phase II)	PA	269.50(b)(2)	If the proposed facility is <b>located within 1 mile</b> of the nearest bank of a stream or river listed for study by the Department as a State wild, scenic, recreational, pastoral or modified recreational river, or mandated by the U.S. Congress for study or determined by the U.S. Park Service to meet the criteria for study for potential inclusion into the National Wild and Scenic Rivers System, <b>the applicant shall provide</b> information and analyses to allow <b>the Department to assess</b> the extent to which the proposed facility may created adverse environmental, visual or traffic impacts.
Impact on national, state, county and municipal parks and picnic areas (Phase II)	PA	269.50(b)(3)	If the proposed facility is <b>located within 1 mile</b> of a unit of the National Park System; a State, county or municipal park; a recreational facility operated by the U.S. Army Corps of Engineers; a State forest picnic area; or the Allegheny River Reservoir, <b>the applicant shall provide</b> information and analyses to allow <b>the Department to assess</b> the extent to which the proposed facility may created adverse environmental, visual or traffic impacts.
Impact on State designated trails (Phase II)	PA	269.50(b)(4)	If the proposed facility is <b>located within 1 mile</b> of the footpath of the Appalachian Trail or other State designated trail, <b>the applicant shall provide</b> information and analyses to allow <b>the Department to assess</b> the extent to which the proposed facility may create adverse environmental, visual or traffic impacts.
Impact on national and Pennsylvania natural landmarks (Phase II)	PA	269.50(b)(5)	If the proposed facility is <b>located within 1 mile</b> of a National Natural Landmark or a natural area or wild area designated by EQB, <b>the applicant shall provide</b> information and analyses to allow <b>the Department to assess</b> the extent to which the proposed facility may create adverse environmental, visual or traffic impacts.

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Impact on a wildlife refuge, fish hatchery or national environment center (Phase II)	PA	269.50(b)(6)	If the proposed facility is <b>located within 1 mile</b> of a national wildlife refuge, national fish hatchery or national environment center operated by the U.S. Fish and Wildlife Service, <b>the applicant shall provide</b> information and analyses to allow <b>the Department to assess</b> the extent to which the proposed facility may create adverse environmental, visual or traffic impacts.
Impact on historic property (Phase II)	PA	269.50(b)(7)	If the proposed facility is <b>located within 1 mile</b> of a historic property owned by the Historical and Museum Commission, <b>the applicant shall provide</b> information and analyses to allow <b>the Department to assess</b> the extent to which the proposed facility may create adverse environmental, visual or traffic impacts.
Impact on national historic sites (Phase II)	PA	269.50(b)(8)	If the proposed facility is <b>located within 1 mile</b> of a national historic site, <b>the applicant shall provide</b> information and analyses to allow <b>the Department to assess</b> the extent to which the proposed facility may create adverse impacts.
Impact on Pennsylvania historic or archaeological sites (Phase II)	PA	269.50(b)(9)	If the proposed facility is <b>located within 1/4 mile</b> of a Pennsylvania historic or archaeological site, <b>the applicant shall provide information and analyses</b> to allow <b>the Department to assess</b> the extent to which the proposed facility may create adverse impacts.
Impact on state and national forests or game land (Phase II)	PA	269.50(b)(10)	If the proposed facility is <b>located within 1 mile</b> of a State forest or State game land or the proclamation boundary of the Allegheny National Forest, <b>the applicant shall provide information and analyses</b> to allow <b>the Department to assess</b> the extent to which the proposed facility may create adverse impacts.
Stormwater drainage	PA	269.50(b)(12)	If the facility will result in <b>an increase in the peak discharge rate of stormwater drainage</b> from the project site, <b>the applicant shall demonstrate</b> that the proposed facility is in conformance with the official stormwater management plan required by the Storm Water Management Act and the proposed facility will manage the runoff in a manner that otherwise adequately protects health and property from injury.
Agricultural areas (Phase I)	PA	269.28	Treatment and disposal facilities <b>may not be sited</b> in agricultural areas established under the Agricultural Area Security Law or in farmlands identified as Class I agricultural land by the Soil Conservation Service.

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Impact on agricultural areas (Phase II)	PA	269.50(b)(15)	If a proposed facility is to be located on prime or unique agricultural land, land currently in agricultural use, or lands of Statewide importance, <b>the applicant shall provide</b> information and analyses to allow the Department to assess the proposed facility's consistency with Commonwealth policy.
<b>OTHER RESTRICTIONS</b>			
Oil and gas areas (Phase I)	PA	269.24	Surface impoundment, landfill and land treatment facilities <b>may not be sited</b> over active or inactive oil and gas wells or gas storage areas located within or beneath the facility site.
Oil and gas wells (Phase II)	PA	269.42(e)	If abandoned oil and gas wells or gas storage facilities exist on a proposed facility site, <b>the applicant shall provide</b> information and analysis to allow <b>the Department to assess</b> the probability and degree of subsurface discharges to be expected from the existence of abandoned oil and gas wells and gas storage areas within the facility after wells are plugged.
Ownership of mineral rights (Phase II)	PA	269.44(a)	If a permit applicant <b>does not own all the mineral rights</b> within the proposed facility, <b>the applicant shall determine</b> ownership and provide appropriate certification that ownership of all mineral rights, including rights to coal, oil and gas, is or will be held by the applicant and that these rights will not be severed from the property as long as hazardous waste remains on the property.
Surface subsidence risk associated with mineral bearing areas (Phase II)	PA	269.44(b)	<p><b>!</b> If any part of a <b>proposed facility site has previously been mined by deep or surface methods</b>, <b>the applicant shall provide</b> the results of an engineering study of the proposed site by a competent geotechnical engineer; the study <b>shall allow the Department</b> to assess the probability and degree of surface subsidence and the methods that have been used or are proposed to stabilize the surface.</p> <p><b>!</b> Additionally, <b>the applicant shall provide assurance</b> that minerals providing support will not be mined as long as hazardous waste remains on site.</p>

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Transportation standards: Access (Phase II)	PA	269.46(a)	<p>! If a treatment and disposal facility is <b>located greater than five miles travel distance</b> of interstate or limited access highways <b>and is not served</b> by roads capable of handling anticipated truck traffic or by a dedicated limited access highway, then <b>the applicant shall provide</b> information and analysis to allow the Department to assess:</p> <ul style="list-style-type: none"> <li>- the proximity of the proposed facility to interstate highways,</li> <li>- the effect upon the operation of the proposed facility, and</li> <li>- the effect of the proposed facility upon the community in the transportation corridor to and from the facility.</li> </ul> <p>! <b>The applicant shall provide</b> a plan for highway improvements, if necessary.</p>
Transportation standard: Structures along transportation corridor (Phase II)	PA	269.46(b)	<p>If a treatment or disposal facility is located where the transportation corridor between the entrance to a facility and the nearest interstate or limited access highway is the primary access for <b>more than five</b> residential dwellings per road mile and/or a school, community park and/or hospital is located along the corridor, then <b>the applicant shall provide</b> information and analysis to allow the Department to assess the effect the proposed facility will have upon safety and traffic congestion.</p>
Transportation restrictions	PA	269.46(c)	<p>If a treatment or disposal facility site is located in an area where there are four or more intersections per mile, <b>the applicant shall provide</b> information and analysis to allow the Department to assess the effect the proposed facility will have upon safety and traffic congestion.</p>

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Adequacy of safety services (Phase II)	PA	269.47	<p><b>!</b> Treatment and disposal facilities are deemed to be acceptable if located within an area with adequate safety services. <b>The applicant shall provide</b> information and analyses to allow the Department to assess the adequacy of:</p> <ul style="list-style-type: none"> <li>- fire protection,</li> <li>- police,</li> <li>- ambulance, and</li> <li>- other necessary safety services available and willing to provide services to the proposed facility.</li> </ul> <p><b>!</b> <b>The applicant shall also comply</b> with the requirements of Chapter 264, Subchapters C and D, which relate to preparedness and prevention and to preparedness, prevention and contingency (PPC) plan and emergency procedures.</p>

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
<b>ENVIRONMENTAL JUSTICE CONSIDERATIONS</b>			
No provisions found.			
<b>ECONOMIC CRITERIA</b>			
Impact on revenues to local jurisdictions	PA	269.49(a)	If a treatment or disposal facility <b>will result in a net loss of revenues</b> to local jurisdictions (i.e., the host and contiguous municipalities and municipalities contiguous to the transportation corridor to the nearest interstate or limited access highway), <b>the applicant shall provide</b> information and analyses to allow the Department to assess compensation needed to offset actual net loss of revenues to local jurisdictions caused by the proposed facility.
Impact on cost of services provided by local government	PA	269.49(b)	If a treatment or disposal facility <b>will result in a net increase in the cost of services</b> provided by local government, <b>the applicant shall provide</b> information and analyses to allow the Department to assess compensation needed to offset net increases in the cost of services.
Impact on local economy	PA	269.49(c)	If a treatment or disposal facility <b>will adversely affect the local economy</b> , <b>the applicant shall provide</b> information and analyses to allow the Department to assess employment and future economic development generated as a result of the location of the facility which may offset a decrease in the local economy.
Cost of monitoring of the facility	PA	269.49(d)	<b>!</b> If a treatment or disposal facility <b>will result in a net increase in cost of monitoring the facility</b> by local government, <b>the applicant shall provide</b> information and analyses to allow the Department to assess the need for compensation for technical assistance which may offset these costs.  <b>! The applicant shall assess</b> provisions for site access by local government.
Impact on property values	PA	269.49(e)	<b>The applicant shall provide</b> information and analyses to allow the Department to assess a change in market value of property within the local government caused by operation of the treatment or disposal facility and means by which operation of the proposed facility may offset the change.

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
<b>OTHER CRITERIA</b>			
<b>COMPLIANCE WITH AUTHORITY OF OTHER AGENCIES</b>			
National natural landmarks and historic places (Phase I)	PA	269.26	Treatment and disposal facilities <b>may not be sited</b> within National Natural Landmarks designated by the National Park Service or historic sites listed on the National Register of Historic Places, <b>unless the statute</b> under which the designation or listing has been made <b>authorizes the operation</b> of the facilities in such areas.
Dedicated lands in public trust (Phase I)	PA	269.27	Treatment and disposal facilities <b>may not be sited</b> on lands in public trust, including the following, <b>unless the agency administering the lands has been given authority</b> by statute or ordinance to allow the operation of the facilities on such lands: <ul style="list-style-type: none"> <li>- State, county or municipal parks,</li> <li>- units of the National Park System,</li> <li>- State forests,</li> <li>- the Allegheny National Forest,</li> <li>- State game lands,</li> <li>- property owned by the Historical and Museum Commission,</li> <li>- a national wildlife refuge,</li> <li>- a national fish hatchery, or</li> <li>- a national environmental center.</li> </ul>

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
<b>CERTIFICATION OF PUBLIC NECESSITY</b>			
<b>Purpose and Applicability</b>			
Purpose of the certificate of public necessity (CPN)	PP	<i>[6018.105(h)]</i> 269.103(b)	<b>!</b> Issuance of a certificate of public necessity (CPN) <b>shall suspend and supersede any and all local laws which would preclude or prohibit</b> the establishment of a hazardous waste treatment or disposal facility at said site, including zoning ordinances.
	PP	<i>[6018.105(h)]</i> 269.103(c)	<b>!</b> The <b>suspension and supersession</b> is explicitly <b>extended to any person to whom such certificates are issued</b> for the purpose of hazardous waste treatment or disposal, <b>and to the successors and assigns</b> of such person.
Applicants eligible for a CPN	PP	<i>[6018.105(f)]</i> 269.121	<b>An applicant, prior to applying to the EQB for a CPN, shall have:</b> <b>!</b> permits necessary for construction and operation of a new or modified facility from the Department or the Federal agency authorized to issue permits in the Commonwealth, and <b>!</b> implemented impact assessments and public participation programs related to obtaining those permits.
<b>CPN Application Requirements</b>			
Submittal of application	PP	269.122	<b>An applicant for a CPN must submit 8 copies of the application to the EQB Chairperson by certified mail.</b>
<b>Procedures for CPN Application Review</b>			
Notification of the EQB regarding the receipt of a CPN application	PP	269.131(a)&(b)	<b>At the first EQB meeting following its receipt, the Chairperson of the EQB will notify</b> the EQB that a CPN application has been received.

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Review of a CPN application for completeness	PP	269.131(b)	<b>! The EQB will determine</b> whether an application for a CPN is complete <b>within 60 days of the Chairperson's notification</b> to the EQB that the application has been received.
		269.131(d)	<b>! A</b> CPN application determined to be incomplete <b>shall be returned</b> to the applicant with an explanation of why the application is incomplete.
		269.131(e)	<b>! The EQB reserves</b> the right to request additional information after the CPN application is determined to be complete.
Criteria for Issuing CPNs			
General criterion	PP	269.151	As part of the review of a <b>CPN application</b> , the <b>EQB will evaluate</b> the information received from the applicant, the comments received on the application during the comment period and other relevant information in reaching its decision on the application.
Conformance with the Hazardous Waste Facilities Plan	PP	269.152	<b>The EQB</b> , in evaluating <b>whether to issue a CPN</b> , will <b>determine</b> :  <b>!</b> the extent to which the facility is in conformance with the Hazardous Waste Management Facilities Plan (Plan),  <b>!</b> whether the facility is needed as defined by the Plan, and  <b>!</b> whether the facility is consistent with the waste management hierarchy outlined in the Plan.
Assessment of impact on adjacent populated areas	PP	269.153(a)	<b>! The EQB</b> , in evaluating <b>whether to issue a CPN</b> , will <b>determine the impact</b> of the proposed facility on adjacent populated areas and areas through which wastes are transported to the facility.
		269.153(b)	<b>! The EQB</b> , in making the determination regarding the impact of the facility on adjacent populated areas, <b>may consider</b> how the facility has complied with siting criteria under §§ 269.46 and 269.48 (relating to transportation standards and proximity of facilities and structures).

<sup>1</sup>PPA = Pre-permit application provision

PA = Post permit application, but prior to draft permit provision

PDP = Post draft permit provision

PP = Post permit issuance provision

<sup>2</sup>Citations bracketed in italics (e.g., [6018.507(a)(1)]) indicate provisions from the State's statutes; citations in regular print are from the State's regulations.

### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Impact on local health, safety, economy and planning	PP	269.154(a)	<b>! The EQB, in evaluating whether to issue a CPN, will determine the impact</b> of the facility on the borough, township, town, home rule municipality or city in which the facility is located in terms of health, safety, cost and consistency with local planning.
	PP	269.154(b)	<b>! The EQB, in making the determination regarding the impact of the facility on local health, safety, economy and planning, may consider</b> how the facility has complied with siting criteria under §§ 269.45, 269.47 and 269.49 (relating to land use, safety services and economic criteria).
Assessment of implementation of public participation guidelines regarding a CPN application	PP	269.155	<p><b>The EQB will</b> assess the extent of public participation by <b>considering</b> the following criteria:</p> <p><b>!</b> the extent to which <b>the applicant has implemented</b> guidelines developed by the EQB at Chapter 24 (which relate to a model procedure for meaningful public participation--a statement of policy) relating to public participation in the location of a hazardous waste treatment and disposal facility, as well as the extent to which the proposed facility has been the subject of a public participation program in which citizens have had a meaningful opportunity to participate in the evaluation of:</p> <ul style="list-style-type: none"> <li>- alternate sites or technologies,</li> <li>- development of siting criteria,</li> <li>- socioeconomic assessment, and</li> <li>- other phases of the site selection process; and</li> </ul> <p><b>!</b> cooperative agreements developed between the applicant and host county and host municipality.</p>
Deadline for EQB decision on CPN application	PP	269.161	<p><b>! The EQB will issue</b> its decision on a CPN application <b>within 180 calendar days</b> of its determination that the application is complete.</p> <p><b>! The deadline may be extended for a period of 60 days or less</b> if the applicant and host county and host municipality make a written recommendation to the Board or if the EQB extends the public comment period under §269.143.</p> <p><b>! The EQB will have 60 days</b> after an extension to issue its decision.</p>

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### Pennsylvania Hazardous Waste Facility Siting Provisions

Topic	Stage <sup>1</sup>	State citation <sup>2</sup>	Provision
Record of decision regarding a CPN application	PP	269.162	<b>The EQB will issue</b> a written record of decision on a CPN application outlining the findings of the EQB under each of the criteria established in §§ 269.151 through 269.155. The record of decision <b>will include</b> a summary of comments received on the CPN application and the EQB's response to those comments.
Public notice of a CPN decision	PP	269.163	<p><b>! The Chairperson of the EQB will notify</b> in writing, <b>within 10 days</b> of the EQB decision,</p> <ul style="list-style-type: none"> <li>- the applicant,</li> <li>- the host municipality,</li> <li>- the host county, and</li> <li>- persons identified on the mailing list established under §269.142.</li> </ul> <p><b>! The Department will provide</b> additional notice of the decision of the EQB as described in §269.141.</p>

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